

**Introduced by Committee on Health (Senators Hernandez (Chair),
Anderson, Beall, DeSaulnier, Monning, Nielsen, Pavley, and
Wolk)**

March 11, 2013

An act to amend Sections 1339.40 and 1339.43 of the Health and Safety Code, and to amend Section 4512 of the Welfare and Institutions Code, relating to health and human services.

LEGISLATIVE COUNSEL'S DIGEST

SB 816, as introduced, Committee on Health. Hospice facilities: developmental disabilities: intellectual disability.

(1) Existing law provides for the licensure and regulation of health facilities, including hospice facilities, by the State Department of Public Health. A violation of those provisions is a crime. Existing law requires a freestanding hospice facility to meet specified requirements relating to the physical environment of the facility until the Office of Statewide Health Planning and Development, in consultation with the Office of the State Fire Marshal, develops and adopts building standards for hospice facilities.

This bill would instead require the Office of the State Fire Marshal to develop and adopt the building standards for hospice facilities in consultation with the Office of Statewide Health Planning and Development and would make other technical changes.

(2) Existing law, the Lanterman Developmental Disabilities Services Act, requires the State Department of Developmental Services to contract with regional centers to provide services and supports to individuals with developmental disabilities, defined to include mental retardation and disabling conditions related to, or requiring treatment similar to, mental retardation.

This bill would revise this definition of developmental disabilities to instead include intellectual disability and disabling conditions closely related to, or requiring treatment similar to, intellectual disability.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1339.40 of the Health and Safety Code
- 2 is amended to read:
- 3 1339.40. For the purposes of this article, the following
- 4 definitions apply:
- 5 (a) “Bereavement services” has the same meaning as defined
- 6 in subdivision (a) of Section 1746.
- 7 (b) “Hospice care” means a specialized form of interdisciplinary
- 8 health care that is designed to provide palliative care, alleviate the
- 9 physical, emotional, social, and spiritual discomforts of an
- 10 individual who is experiencing the last phases of life due to the
- 11 existence of a terminal disease, and provide supportive care to the
- 12 primary caregiver and the family of the hospice patient, and that
- 13 meets all of the following criteria:
- 14 (1) Considers the patient and the patient’s family, in addition
- 15 to the patient, as the unit of care.
- 16 (2) Utilizes an interdisciplinary team to assess the physical,
- 17 medical, psychological, social, and spiritual needs of the patient
- 18 and the patient’s family.
- 19 (3) Requires the interdisciplinary team to develop an overall
- 20 plan of care and to provide coordinated care that emphasizes
- 21 supportive services, including, but not limited to, home care, pain
- 22 control, and limited inpatient services. Limited inpatient services
- 23 are intended to ensure both continuity of care and appropriateness
- 24 of services for those patients who cannot be managed at home
- 25 because of acute complications or the temporary absence of a
- 26 capable primary caregiver.
- 27 (4) Provides for the palliative medical treatment of pain and
- 28 other symptoms associated with a terminal disease, but does not
- 29 provide for efforts to cure the disease.
- 30 (5) Provides for bereavement services following death to assist
- 31 the family in coping with social and emotional needs associated
- 32 with the death of the patient.

(6) Actively utilizes volunteers in the delivery of hospice services.

(7) To the extent appropriate, based on the medical needs of the patient, provides services in the patient's home or primary place of residence.

(c) "Hospice facility" means a health facility as defined in subdivision (n) of Section 1250.

(d) "Inpatient hospice care" means hospice care that is provided to patients in a hospice facility, including routine, continuous and inpatient care directly as specified in Section ~~418.10~~ 418.110 of Title 42 of the Code of Federal Regulations, and may include short-term inpatient respite care as specified in Section 418.108 of Title 42 of the Code of Federal Regulations.

(e) "Interdisciplinary team" has the same meaning as defined in subdivision (g) of Section 1746.

(f) "Medical direction" has the same meaning as defined in subdivision (h) of Section 1746.

(g) "Palliative care" has the same meaning as defined in subdivision (j) of Section 1746.

(h) "Plan of care" has the same meaning as defined in subdivision (l) of Section 1746.

(i) "Skilled nursing services" has the same meaning as defined in subdivision (n) of Section 1746.

(j) "Social services/counseling services" has the same meaning as defined in subdivision (o) of Section 1746.

(k) "Terminal disease" or "terminal illness" has the same meaning as defined in subdivision (p) of Section 1746.

(l) "Volunteer services" has the same meaning as defined in subdivision (q) of Section 1746.

SEC. 2. Section 1339.43 of the Health and Safety Code is amended to read:

1339.43. (a) A hospice facility shall provide a home-like environment that is comfortable and accommodating to both the patient and patient's visitors.

(b) Building standards for hospice facilities adopted pursuant to this chapter relating to fire and panic safety, and other regulations for hospice facilities adopted pursuant to this chapter, shall apply uniformly throughout the state. No city, county, city and county, including a charter city or charter county, or fire protection district shall adopt or enforce any ordinance or local

1 rule or regulation relating to fire and panic safety in buildings or
2 structures subject to this section that is inconsistent with the rules
3 and regulations for hospice facilities adopted pursuant to this
4 chapter.

5 (c) The hospice facility shall meet the fire protection standards
6 set forth in the federal Medicare conditions of participation (42
7 C.F.R. Part 418 et seq.).

8 (d) A hospice facility may operate as a freestanding health
9 facility.

10 (1) ~~Until the Office of Statewide Health Planning and~~
11 ~~Development the State Fire Marshal, in consultation with the~~
12 ~~Office of the State Fire Marshal Statewide Health Planning and~~
13 ~~Development, develops and adopts building standards for hospice~~
14 ~~facilities, a freestanding hospice facility shall meet applicable~~
15 ~~building standards and requirements relating to the physical~~
16 ~~environment of the facility as specified in Section 418.100 418.110~~
17 ~~of Title 42 of the Code of Federal Regulations. The building~~
18 ~~standards developed shall, at a minimum, maintain the requirements~~
19 ~~specified in that section.~~

20 (2) A freestanding hospice facility shall be under the jurisdiction
21 of the local building department. As part of the license application,
22 the prospective licensee shall submit evidence of compliance with
23 applicable building standards for hospice facilities.

24 (3) The physical environment of the hospice facility shall be
25 adequate to provide the level of care and service required by the
26 residents of the facility as determined by the department.

27 (e) A hospice facility may be located within the physical plant
28 of another health facility.

29 (1) Notwithstanding subdivision (d) and paragraphs (8) and (9)
30 of subdivision (b) of Section 129725, a hospice facility located
31 within the physical plant of another licensed health facility that is
32 under the jurisdiction of the Office of Statewide Health Planning
33 and Development, shall meet the building standards for that
34 category of health facility within which the hospice facility is
35 located, and plans shall be submitted to the office for review of
36 any new construction or renovation of these hospice facilities. As
37 part of the license application, the prospective licensee shall submit
38 evidence of compliance with the building codes enforced by the
39 Office of Statewide Health Planning and Development.

(2) The physical environment of the facility shall be adequate to provide the level of care and service required by the residents of the facility as determined by the department.

(3) In the event the space used by the hospice facility reverts back to the facility with which the hospice facility shared the space, the building standards applicable to the former shared space, as identified by date of enactment of the standards, shall not change due solely to the reversion.

(4) A hospice facility that provides inpatient hospice care and is located within, adjacent to or physically connected to another health facility shall provide all of the following:

(A) A designated nursing station.

(B) Adequate space for the preparation of drugs with lockable, secure storage that is accessible only by authorized personnel.

(C) Signage that shall clearly demarcate the hospice facility area from the facility with which the hospice facility shares space.

(D) Doors for every exit and entrance to the hospice facility.

(E) Contiguous beds within the designated area set aside for the hospice facility.

(f) If a freestanding hospice facility is located on the site of or is physically connected to a health facility that is under the jurisdiction of the Office of Statewide Health Planning and Development or both, the hospice facility shall submit plans for any new construction or renovation of the hospice facility to the office for plan review and approval. The Office of Statewide Health Planning and Development shall review the hospice facility plans to identify any impacts to the health facility under the office's jurisdiction that may compromise the health facility's continued compliance with applicable laws and regulations.

SEC. 3. Section 4512 of the Welfare and Institutions Code is amended to read:

4512. As used in this division:

(a) "Developmental disability" means a disability that originates before an individual attains ~~age 18 years~~, *years of age*; continues, or can be expected to continue, ~~indefinitely~~, *indefinitely*; and constitutes a substantial disability for that individual. As defined by the Director of Developmental Services, in consultation with the Superintendent of Public Instruction, this term shall include ~~mental retardation~~ *intellectual disability*, cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found

1 to be closely related to *intellectual disability* or to require treatment
2 similar to that required for individuals with ~~mental retardation~~ *an*
3 *intellectual disability*, but shall not include other handicapping
4 conditions that are solely physical in nature.

5 (b) “Services and supports for persons with developmental
6 disabilities” means specialized services and supports or special
7 adaptations of generic services and supports directed toward the
8 alleviation of a developmental disability or toward the social,
9 personal, physical, or economic habilitation or rehabilitation of an
10 individual with a developmental disability, or toward the
11 achievement and maintenance of independent, productive, normal
12 lives. The determination of which services and supports are
13 necessary for each consumer shall be made through the individual
14 program plan process. The determination shall be made on the
15 basis of the needs and preferences of the consumer or, when
16 appropriate, the consumer’s family, and shall include consideration
17 of a range of service options proposed by individual program plan
18 participants, the effectiveness of each option in meeting the goals
19 stated in the individual program plan, and the cost-effectiveness
20 of each option. Services and supports listed in the individual
21 program plan may include, but are not limited to, diagnosis,
22 evaluation, treatment, personal care, day care, domiciliary care,
23 special living arrangements, physical, occupational, and speech
24 therapy, training, education, supported and sheltered employment,
25 mental health services, recreation, counseling of the individual
26 with a developmental disability and of his or her family, protective
27 and other social and sociolegal services, information and referral
28 services, follow-along services, adaptive equipment and supplies,
29 advocacy assistance, including self-advocacy training, facilitation
30 and peer advocates, assessment, assistance in locating a home,
31 child care, behavior training and behavior modification programs,
32 camping, community integration services, community support,
33 daily living skills training, emergency and crisis intervention,
34 facilitating circles of support, habilitation, homemaker services,
35 infant stimulation programs, paid roommates, paid neighbors,
36 respite, short-term out-of-home care, social skills training,
37 specialized medical and dental care, supported living arrangements,
38 technical and financial assistance, travel training, training for
39 parents of children with developmental disabilities, training for
40 parents with developmental disabilities, vouchers, and

1 transportation services necessary to ensure delivery of services to
2 persons with developmental disabilities. Nothing in this subdivision
3 is intended to expand or authorize a new or different service or
4 support for any consumer unless that service or support is contained
5 in his or her individual program plan.

6 (c) Notwithstanding subdivisions (a) and (b), for any
7 organization or agency receiving federal financial participation
8 under the federal Developmental Disabilities Assistance and Bill
9 of Rights Act of 2000, as amended, “developmental disability”
10 and “services for persons with developmental disabilities” mean
11 the terms as defined in the federal act to the extent required by
12 federal law.

13 (d) “Consumer” means a person who has a disability that meets
14 the definition of developmental disability set forth in subdivision
15 (a).

16 (e) “Natural supports” means personal associations and
17 relationships typically developed in the community that enhance
18 the quality and security of life for people, including, but not limited
19 to, family relationships, friendships reflecting the diversity of the
20 neighborhood and the community, associations with fellow students
21 or employees in regular classrooms and workplaces, and
22 associations developed through participation in clubs,
23 organizations, and other civic activities.

24 (f) “Circle of support” means a committed group of community
25 members, who may include family members, meeting regularly
26 with an individual with developmental disabilities in order to share
27 experiences, promote autonomy and community involvement, and
28 assist the individual in establishing and maintaining natural
29 supports. A circle of support generally includes a plurality of
30 members who neither provide nor receive services or supports for
31 persons with developmental disabilities and who do not receive
32 payment for participation in the circle of support.

33 (g) “Facilitation” means the use of modified or adapted
34 materials, special instructions, equipment, or personal assistance
35 by an individual, such as assistance with communications, that
36 will enable a consumer to understand and participate to the
37 maximum extent possible in the decisions and choices that effect
38 his or her life.

39 (h) “Family support services” means services and supports that
40 are provided to a child with developmental disabilities or his or

1 her family and that contribute to the ability of the family to reside
2 together.

3 (i) “Voucher” means any authorized alternative form of service
4 delivery in which the consumer or family member is provided with
5 a payment, coupon, chit, or other form of authorization that enables
6 the consumer or family member to choose his or her own service
7 provider.

8 (j) “Planning team” means the individual with developmental
9 disabilities, the parents or legally appointed guardian of a minor
10 consumer or the legally appointed conservator of an adult
11 consumer, the authorized representative, including those appointed
12 pursuant to subdivision (d) of Section 4548 and subdivision (e) of
13 Section 4705, one or more regional center representatives,
14 including the designated regional center service coordinator
15 pursuant to subdivision (b) of Section 4640.7, any individual,
16 including a service provider, invited by the consumer, the parents
17 or legally appointed guardian of a minor consumer or the legally
18 appointed conservator of an adult consumer, or the authorized
19 representative, including those appointed pursuant to subdivision
20 (d) of Section 4548 and subdivision (e) of Section 4705, and
21 including a minor’s, dependent’s, or ward’s court-appointed
22 developmental services decisionmaker appointed pursuant to
23 Section 319, 361, or 726.

24 (k) “Stakeholder organizations” means statewide organizations
25 representing the interests of consumers, family members, service
26 providers, and statewide advocacy organizations.

27 (l) “Substantial disability” means the existence of significant
28 functional limitations in three or more of the following areas of
29 major life activity, as determined by a regional center, and as
30 appropriate to the age of the person:

- 31 (1) Self-care.
- 32 (2) Receptive and expressive language.
- 33 (3) Learning.
- 34 (4) Mobility.
- 35 (5) Self-direction.
- 36 (6) Capacity for independent living.
- 37 (7) Economic self-sufficiency.

1 Any reassessment of substantial disability for purposes of
2 continuing eligibility shall utilize the same criteria under which
3 the individual was originally made eligible.

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